

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
TODD MILTON HENRY,  
Defendant.

Case No. CR20-147-RSL

**ORDER GRANTING  
STIPULATED MOTION TO  
CONTINUE TRIAL AND  
PRETRIAL MOTIONS DUE  
DATE**

This matter comes before the Court on the parties' "Stipulated Motion to Continue Trial and Pretrial Motions Dates." (Dkt. # 30). Having considered the facts set forth in the motion, and defendant's knowing and voluntary waiver (Dkt. # 31), the Court finds as follows:

1. The Court adopts the facts set forth in the stipulated motion: in particular, that:

(a) defendant underwent surgery for a health condition that caused him to experience mood and affect issues, thus impairing his ability to concentrate on his case, and while the surgery has improved defendant's emotional state, he still experiences periods of emotional instability; (b) defendant's in-progress psychosexual evaluation has been delayed due to the COVID-19 omicron variant, his continued recovery from surgery, and the evaluator's backlog, which has contributed to a delay in negotiations; (c) the ongoing COVID-19 pandemic has made in-person meetings and other forms of communication more difficult; and (d) defense counsel requires additional time to explore complex mental health and mitigation issues and to communicate with defendant about his defense strategy now that his mood is better regulated. The Court

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MOTION TO CONTINUE TRIAL - 1**

1 accordingly finds that a failure to grant a continuance would deny counsel, and any potential  
2 future counsel, the reasonable time necessary for effective preparation, taking into account the  
3 exercise of due diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

4       2. The Court finds that a failure to grant a continuance would likely result in a  
5 miscarriage of justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i).

6       3. The Court finds that the additional time requested between February 28, 2022, and  
7 the proposed trial date of September 26, 2022, is a reasonable period of delay. The Court finds  
8 that this additional time is necessary to provide defense counsel reasonable time to prepare for  
9 trial, as defendant has requested more time to prepare for trial, to continue to investigate the  
10 matter, to gather evidence material to the defense, and to consider possible defenses. The  
11 additional time requested between the current trial date and the new trial date is necessary to  
12 provide counsel for the defendant the reasonable time necessary to prepare for trial, considering  
13 all of the facts set forth above.

14       4. The Court further finds that this continuance would serve the ends of justice, and  
15 that these factors outweigh the best interests of the public and defendant in a speedier trial,  
16 within the meaning of 18 U.S.C. § 3161(h)(7)(A).

17       5. Defendant has signed a waiver indicating that he has been advised of his right to a  
18 speedy trial and that, after consulting with counsel, he has knowingly and voluntarily waived  
19 that right and consented to the continuation of his trial to a date up to and including October 31,  
20 2022, Dkt. # 31, which will permit his trial to start on September 26, 2022.

21           IT IS HEREBY ORDERED that the trial date shall be continued from February 28,  
22 2022 to September 26, 2022, and pretrial motions are to be filed no later than August 15,  
23 2022;

24           IT IS FURTHER ORDERED that the period of time from the current trial date of  
25 February 28, 2022, up to and including the new trial date, shall be excludable time pursuant to  
26 the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.* The period of delay attributable to this filing

1 and granting of this motion is excluded for speedy trial purposes pursuant to 18 U.S.C.  
2 §§ 3161(h)(1)(D), (h)(7)(A), and (h)(7)(B).

3 DATED this 31<sup>st</sup> day of January, 2022.

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5  
6 *Robert S. Lasnik*

7 Robert S. Lasnik  
8 United States District Judge

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